REMARKS

Status of the Claims

Claims 1-4, 6, 7, 9-11, 13, 17, 35, 38, 40, 49, 50, 115 and 130-134 are currently pending in the application and subject to a Restriction Requirement. (*See*, Office Communication of September 13, 2007, at page 2, hereinafter, "Office Communication"). Applicants traverse the Unity of Invention Restriction as set forth herein. Reconsideration is respectfully requested.

Unity of Invention

Claims 1-4, 6, 7, 9-11, 13, 17, 35, 38, 40, 49, 50, 115 and 130-134 are pending and are subject to a Unity of Invention restriction under 35 U.S.C. §§ 121 and 372 for reciting inventions or groups of inventions that are not so linked as to form a single general inventive concept under PCT Rule 13.1. (*See*, Office Communication, at page 2). Applicants traverse as hereinafter set forth.

For the purpose of examination of the present application, Applicants elect, with traverse, Group I, Claims 1-4, 6, 7, 9, 130 and 131.

The Examiner states that "there is no technical relationship among these inventions involving one or more of the same or corresponding special technical features." (*Id.*). However, such is not the proper standard for a determination of Unity of Invention under PCT Rule 13.1. The present claims must be considered in a single application because all claims have in

common a special technical feature, as admitted by the Examiner, who appears to admit that the present invention involves "one or more of the same or corresponding special technical features." (*Id.*). The Examiner states that the common special technical feature shared among all five of the restriction groups is t-PA. (*Id.*). However, the Examiner states that Degen et al., *J. Biol. Chem.*, 261(15):6972-6985, 1986 (hereinafter, "Degen et al."), discloses human t-PA.

The Examiner's overly-simplistic interpretation of the presently claimed invention is not factually accurate or proper. That is, the present invention is not only drawn to the composition of t-PA. In fact, even the Examiner has drawn the methods of the presently claimed invention into three distinct groupings. Thus, it is obvious that the presently claimed invention is primarily drawn to methods of identifying subjects predisposed to various diseases, which involves measuring a rate of release of t-PA. The present application is also drawn to novel nucleotide sequences recited in claim 115, but this is not the only subject matter disclosed in the present application. The Examiner's understanding of the presently claimed invention and thus, the premise of the present restriction, is incorrect and not supportable in light of the clear language of the present claims.

The Examiner has failed to both properly identify the special technical feature of the present invention, and has failed to find or cite to any prior art allegedly disclosing or even suggesting the presently claimed special technical feature.

Citation to a reference that merely discloses human t-PA protein is ineffective in destroying the special technical feature of the presently claimed invention. That is, Degen et al. do not disclose any of the elements, *i.e.* method steps, the presently claimed methods recite in the claims of Groups I-III. Degen et al. thus do not disclose or even suggest the special technical

feature of the presently claimed invention as recited in the claims of Groups I-III. Even cursory examination of the reference and the present claims of Groups I-III reveals this truth.

Furthermore, Degen et al. is directed only to the *wild type* sequence of human t-PA. Degen et al. do not disclose any specific mutations of human t-PA, nor the specific mutations recited in the presently pending claims. Therefore, Degen et al. does not even apply to the nucleotide sequences recited in claim 115, nor any of the mutations recited in the dependent claims. In fact, as already stated, Degen et al. does not apply in any way to the presently claimed invention.

The Examiner's basis for the present restriction is without merit because the Examiner has misunderstood the presently claimed special technical feature and has cited a reference which does not in any way anticipate or make obvious the presently claimed invention. Degen et al. therefore fails to destroy the special technical feature of the presently claimed invention, at least as recited in the claims of Groups I-III.

Finally, according to MPEP § 1893.03(d), the Examiner is respectfully reminded that if the Examiner (1) determines that the claims lack unity of invention and (2) requires election of a single invention, when all of the claims drawn to the elected invention are allowable, the nonelected invention(s) should be considered for rejoinder. Any nonelected product claim that requires all the limitations of an allowable product claim, and any nonelected process claim that requires all the limitations of an allowable process claim, should be rejoined. (*See*, MPEP § 821.04 and § 821.04(a)). Any nonelected processes of making and/or using an allowable product should be considered for rejoinder following the practice set forth in MPEP § 821.04(b).

For at least these reasons, Applicants request reconsideration, withdrawal of the restriction, and allowance of at least the method claims of Groups I-III, claims 1-4, 6, 7, 9-11, 13, 17, 35, 38, 40, 49, 50 and 130-134.

CONCLUSION

If the Examiner has any questions or comments, please contact Thomas J. Siepmann, Ph.D., Registration No 57,374, at the offices of Birch, Stewart, Kolasch & Birch, LLP.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

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Respectfully submitted,

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